THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.28648 of 2006

Date:25.01.2006

Between:

D.Suri Babu and others

-------PETITIONERS

AND

Visakhapatnam Urban Development Authority and another

---------RESPONDENTS

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ORDER:

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The petitioners are the owners of the land in Sy.Nos.3/1P, 1585/1P of Anakapalli Town, Visakhapatnam District. Their land is sought to be acquired through notification, dated 12.08.1993, under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act'). Enquiry under Section 5-A of the Act was conducted and, ultimately, a declaration under Section 6 was made on 29.07.1994. The first respondent passed an award on 06.09.1996. The petitioners contend that the whole proceedings get vitiated by operation of Section 11-A of the Act, inasmuch as the award was made beyond two years from the date of publication of the notification.

In the counter affidavit filed by the first respondent, the fact that the petitioners are the

owners of the land is not disputed. Reference is made to earlier round of proceedings, through which, the land was sought to be acquired. According to them, notification under Section 4(1) as well as declaration under Section 6 were published in the Official Gazette on 03.08.1994. It is stated that the possession of the land could not be taken on account of the interim orders granted by this Court on 03.01.1997.

Heard the learned counsel for the petitioners, the learned standing counsel for the first respondent and the learned Government Pleader for Land Acquisition.

The only point that arises for consideration in this writ petition is, as to whether the proceedings initiated by the respondents for acquiring the land of the petitioners under the Act get vitiated by operation of Section 11-A of that Act.

Section 11-A of the Act mandates that if an award is not passed under that Act within two years from the date of publication of the declaration under Section 6, the entire proceedings for acquisition of the land shall lapse. The manner in which the period of two years shall be completed is explained in the proviso as well as in the Explanation.

The Supreme Court and this Court held in several cases that if the possession of the land was taken within the period of two years from the date of publication of the declaration under Section 6 of the Act, the prohibition contained in Section 11-A does not operate.

In the instant case, even if the version put forward by the respondents is taken as the basis, the fact remains that notifications under Sections 4(1) and 6 were published on 03.08.1994 and the award ought to have been passed on or before 02.08.1996. It is a matter of record that the award was passed on 06.09.1996 and by that time, the possession of the land was not taken. Therefore, Section 11-A of the Act operates and the proceedings initiated against the land of the petitioners get vitiated.

Hence, the writ petition is allowed, as prayed for. There shall be no order as to costs.

23.02.2006

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